

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Third Judicial District Court, County of Anaconda-Deer Lodge

STATE OF MONTANA,)	
)	
Plaintiff,)	
)	CAUSE NO. DC-16-011
-vs-)	
)	DECISION
ROBERT JOSEPH FLEMING,)	
)	
Defendant.)	

On December 30, 2016, the Defendant was sentenced to the Montana State Prison for ten (10) years with no restrictions on his parole eligibility for the offense of Criminal Endangerment, a felony, in violation of §45-5-207(1), MCA (2015). The Defendant was ordered to pay court fees totaling \$80.

On May 5, 2017, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant was present and was represented by Daylon Martin, third year law student working under the supervision of Brent Getty of the Office of the State Public Defender. The State was represented by Kathryn McEnery of the Anaconda-Deer Lodge County Attorney's Office.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 5th day of May, 2017.

DATED this 31 day of May, 2017.

SENTENCE REVIEW DIVISION



Hon. Brad Newman, Chairperson




Hon. Kathy Seeley, Member



Hon. Brenda Gilbert, Member

Copies mailed this 2nd day
of June, 2017, to:

Clerk of District Court (Original)
Robert Joseph Fleming #2016091, Defendant (2)
Hon. Ray Dayton
Brent Getty, Defense Counsel
Kathryn McEnery, Esq.
Board of Pardons and Parole
MSP - Records Dept.


Georgia Lovelady, Judicial Assistant
Sentence Review Division